IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

THURSDAY, THE 22ND MARCH 2007 / 1ST CHAITHRA 1929

WP(C).No. 10000 of 2007(M)

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OS.324/2005 of ADDL.MUNSIFF COURT,KOCHI
AS.56/2006 of ADDITIONAL SUB COURT, KOCHI

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PETITIONERS:

1. HARIHARAN, S/O VELU, CHADAENGAT HOUSE,
   KUMBALANGI VILLAGE, KUMBALANGI P.O.,
   KOCHI TALUK, ERNAKULAM DISTRICT.

2. ANEESH, S/O HARIHARAN, CHADAENGAT HOUSE,
   -DO - DO -

3. SOBHA, W/O HARIHARAN, CHADAENGAT HOUSE,
   -DO - DO -

4. DILEEP, S/O RAJAPPAN, CHADAENGAT HOUSE,
   -DO - DO -

BY ADV. SRI.P.K.RAVINDRAN PUZHANKARA

RESPONDENTS:

1. JOSE ANTONY, S/O BAPPU,
   KANNAMKERY HOUSE, KUMBALANGI MURI,
   KUMBALANGI VILLAGE, COCHIN TALUK.

2. C.R.SATHYAN, S/O RAJAPPAN,
   CHADAENGAT HOUSE, - DO - DO -

BY ADV. SRI.SABU GEORGE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.P. Balachandran, J.

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W.P.(C)No. 10000 of 2007 M

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**JUDGMENT**

The petitioners are the judgment debtors in O.S.No.324/05 on the file of the Additional Munsiff's Court, Kochi. It is submitted that the decree in the said suit was passed, declaring title of the first respondent over B, C and D scheduled properties and prohibiting the petitioners from obstructing the construction of a compound wall on the sides of B, C and D scheduled properties, which constitute a pathway and against vehicular traffic by the petitioners in the said properties.

2. The grievance of the petitioners is that as against Exhibit P1 judgment in the said suit A.S. No.56/06 was filed before the Additional Sub Court, Kochi, but that, no stay could be obtained as there is no sitting in the Additional Sub Court, Kochi as also in the Principal Sub Court, Kochi.

3. Advocate Sri.Sabu George, who appears for the first respondent/decree holder, submits that A.S.No.56/06 was being filed very early in 2006 and that the petitioners were avoiding getting any orders. Counsel for the petitioners submits that in execution of Exhibit P1 decree, the Munsiff's Court, Kochi has ordered, on 19.3.2007, to put up the compound wall on 23.3.2007 with the assistance of police.

4. The report obtained from the Registry shows that charge of Principal and Additional Sub Judge, Kochi is now held by the III Additional Sub Judge, Ernakulam. Therefore, the petitioners can move the stay petition filed in A.S.No.56/06 before the III Additional Sub Judge, Ernakulam to enable stay being obtained from him. I order that putting up of the boundary wall, in execution of the decree in Exhibit P1 judgment, shall stand adjourned till 28.3.2007. If no stay is obtained till then, the first respondent/decree holder shall be at liberty

to proceed with execution.

This writ petition is disposed of with the above directions. Issue copy of this judgment to the counsel for the petitioners on application as per Rules as expeditiously as possible.

22nd March, 2007 (K.P.Balachandran, Judge)

tkv